

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

FAYE WILLIAMS,

Plaintiff,

v.

CREDIT ONE FINANCIAL, *et al.*,

Defendants.

2:06-cv-00858-BES-RJJ

ORDER

Before this Court is Plaintiff's Motion to Set aside and Vacate Order on Defendant's Motion to Compel (Doc #48) filed on October 19, 2007, in which the Magistrate Judge granted Defendant's Motion to Compel (Doc #32) and Supplement to First Motion to Compel (#38) on October 3, 2007 (Doc #39). Defendants filed their Opposition to Plaintiff's Motion to Set Aside and Vacate Order on (Doc #52) on November 6, 2007.

I. BACKGROUND

The current motion arises out of a October 3, 2007 Magistrate Judge Order (Doc #39) granting Defendant's Motion to Compel (Doc #32) filed on September 26, 2007 and Supplement for Defendant's Motion to Compel (Doc #38) filed on September 26, 2007. Plaintiff failed to file an opposition to the motion, consequently the Court granted said motion pursuant to local Rule 7-2(d). In light of Plaintiff's nonopposition, the Court ordered that on or before October 19, 2007, Plaintiff shall provide the information that was the subject of the Motion to Compel (#32). The Court further ordered Defendant to file an affidavit of fees and

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1 costs incurred in bringing the Motion to Compel on or before October 19, 2007 and Plaintiff
2 shall have to October 29, 2007, to file a response to the affidavit for fees and costs. A hearing
3 was scheduled for November 1, 2007, on the requests for fees and costs related to the Motion
4 to Compel (#32).

5 Plaintiff explains that on February 5, 2007, she was involved in a hit and run motor
6 vehicle accident where she sustained substantial bodily injury. Plaintiff requested and was
7 granted an extension of time by Defendant to respond to the interrogatories and document
8 production. Subsequently, on May 5, 2007, Plaintiff had a slip and fall wherein she sustained
9 a fracture to her right foot which further incapacitated and inhibited her ability to complete
10 Defendant's request in a timely manner.

11 On October 3, 2007, Plaintiff wrote and mailed a letter to the Court a requesting a
12 hearing on Defendant's Motion to Compel. Plaintiff believes that because the Court never got
13 a chance to see the letter before rendering its decision (Order #39 entered October 3, 2007),
14 that she was placed at a disadvantage by not having a hearing in open court to plead her
15 position.

16 II. ANALYSIS

17 A nondispositive order entered by a magistrate judge must be deferred to unless it is
18 "clearly erroneous or contrary to law." See Grimes v. City and County of San Francisco, 951
19 F.2d 236, 241 (9th Cir. 1991); Laxalt v. McClatchy, 602 F. Supp. 214, 216 (D. Nev. 1985);
20 28 U.S.C. § 636(b)(1)(A); Fed.R.Civ.P. 72(a); Local Rule IB 3-1. The "clearly erroneous"
21 standard applies to the Magistrate Judge's factual findings while the "contrary to law" standard
22 applies to the Magistrate Judge's legal conclusions. Grimes, 951 F.2d at 240. A factual
23 finding is clearly erroneous if the reviewing court is left with "a definite and firm conviction that
24 a mistake has been committed." Burdick v. C.I.R., 979 F.2d 1369, 1370 (9th Cir. 1992). Under
25 the contrary to law standard, the Court conducts a de novo review of the Magistrate Judge's
26 legal conclusions. Grimes, 951 F.2d at 241. Applying these standards, the Court cannot find
27 that the Magistrate Judge committed clear error or that the Magistrate Judge's decision is
28 contrary to law. Accordingly,

1 IT IS HEREBY ORDERED that Plaintiff's Motion to Set Aside and Vacate Order on
2 Defendant's Motion to Compel (Doc #48) is DENIED.

3 DATED: This 25TH day of January, 2008.

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7 United States District Judge
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